

ORIGINAL

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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Mia R. Ellis Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 213-765-1380 Bar # 228235	Case Number(s): 12-O-12305-DFM 12-O-14473	For Court use only <div style="text-align: center;"> FILED MAR 25 2013 <i>He</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div> <div style="text-align: center; font-size: 1.5em; font-weight: bold;">PUBLIC MATTER</div>
In Pro Per Respondent Raul Thomas Sosa 478 E Altamonte Dr., Ste 108 Altamonte Springs, Florida 32701 323-877-4782 Bar # 58353	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter of: Raul Thomas Sosa Bar # 58353 A Member of the State Bar of California (Respondent)	ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 20, 1973.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 15 pages, not including the order.

(Effective January 1, 2011)



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- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☒ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☒ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☒ State Bar Court case # of prior case 87-O-17968
 - (b) ☒ Date prior discipline effective July 24, 1992
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: One count each of Business and Professions Code Section 6125 and 6126(a)
 - (d) ☒ Degree of prior discipline One (1) year suspension, stayed, and one (1) year probation.
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See Stipulation at page 12.

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- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Stipulation at page 12.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

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- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

See Stipulation at page 12.

D. Discipline:

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of 2 years.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of 3 years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of one (1) year.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

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- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: Please see Section F(5), "Other Conditions," Ethics School.
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without**

further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

☐ No MPRE recommended. Reason:

- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☒ **Other Conditions:**

Ethics School:

Since Respondent lives in Florida, if he chooses not to attend the required Ethics School in CA, within one (1) year of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than 6 hours of participatory Minimum Continuing Legal Education (MCLE) approved courses in legal ethics. The MCLE hours required by this stipulation are in addition to any MCLE hours required by statute

Financial Conditions:

Since Respondent lives in Florida, if he chooses not to attend the required Ethics School Client Trust Accounting School in CA, within one (1) year of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than 6 hours of participatory Minimum Continuing Legal Education (MCLE) approved courses in client trust accounting. The MCLE hours required by this stipulation are in addition to any MCLE hours required by statute.

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In the Matter of: Raul Thomas Sosa	Case Number(s): 12-O-12305 and 12-O-14473
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Financial Conditions

a. Restitution

- ☐ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- ☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- ☐ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- ☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

**Please see Section F(5), page 6, "Other Conditions",
Financial Conditions .**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Raul Thomas Sosa

CASE NUMBER(S): 12-O-12305 and 12-O-14473

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 12-O-12305 (Complainant: Lily Maury)

FACTS:

1. On November 29, 1994, Lily Maury ("Maury") retained attorney Tory Planas ("Planas") to represent her in a claim for damages against Dow Corning Trust ("Dow") as a result of silicone breast implants. The retainer agreement provided that Planas could associate another law firm or lawyer, to consult or prosecute the case. Respondent associated into the case. He then began representing Maury in or about the latter part of 1994 to in or about May 1995.
2. In June 2006, Respondent sent a claim form to the Settlement Facility Dow Corning Trust (SFDCT) for the Silicone Material Claimants' Fund on Maury's behalf. On June 27, 2006, SFDCT sent Maury a letter acknowledging that Respondent was her attorney of record and in a separate letter acknowledging that she was no longer represented by Planas.
3. On March 28, 2011, the Dow Settlement Facility sent Respondent and Maury a letter containing an offer to settle Maury's personal injury claim for \$3,000. Respondent received the March 28, 2011 letter. The letter stated, in bold type, "If you cash the \$3,000.00 check, then you are agreeing to fully settle your claim in Class 7, and this will be your only payment." Respondent received the letter. Maury did not receive the letter from Dow.
4. Respondent did not inform Maury of Dow's settlement offer.
5. On March 29, 2011, the Dow Settlement Facility sent Respondent a check for \$3,000 in settlement of Maury's disease claim. Respondent received the check.
6. Respondent failed to inform Maury he received the settlement check.
7. On April 5, 2011, Respondent deposited the settlement check into his client trust account.
8. In September 2011, after receiving a letter from Dow, Maury contacted Dow and learned about the \$3,000 settlement check that Dow sent to Respondent.

9. In September 2011, Maury telephoned Respondent's office and spoke to Respondent's secretary, who advised Maury that Respondent would call her. Respondent did not call Maury.

10. From September 2011 to November 2011, Maury telephoned Respondent's office and left voicemail messages for Respondent regarding the status and disbursement of the settlement funds. Respondent received the messages, but did not return Maury's telephone calls.

11. On May 22, 2012, Respondent sent Maury a check for \$2,200 (\$3,000 less \$800 in attorney fees and costs). Maury received the check.

CONCLUSIONS OF LAW:

12. By failing to communicate the settlement offer to Maury, Respondent failed to communicate promptly to a client all amounts, terms, and conditions of any written offer of settlement made to the client, in violation of Rules of Professional Conduct, rule 3-510(A)(2).

13. By failing to disburse the settlement funds, as requested by Maury, Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(4).

14. By failing to inform Maury that he received the settlement check and deposited it into his client trust account, Respondent failed to notify a client promptly of the receipt of the client's funds in willful violation of Business and Professions Code section 4-100(B)(1).

15. By failing to respond promptly to Maury's telephone calls, Respondent willfully violated Business and Professions Code, section 6068(m).

Case No. 12-O-14473 (Complainant: Vilma Alvarado and Oscar Hugo Mendez Valiente)

FACTS:

16. During all relevant periods, Respondent maintained a Client Trust Account at Bank of America, account no. xxxxx-x4991 ("CTA").

17. On March 7, 2008, Aida Valiente ("Valiente") was involved in a car accident.

18. In March 2008, Valiente retained Respondent to represent her in pursuing a personal injury claim. Respondent and Valiente agreed that Respondent would be compensated by a contingency fee of 1/3 of amounts recovered before filing suit, and 40 percent of amounts recovered after filing suit.

19. Because Valiente was returning to Guatemala, she appointed her niece, Vilma Alvarado ("Alvarado"), as special power of attorney on her behalf and, among other things, to endorse any authorizations or checks in her name, and to ask, demand, sue for, collect, and receive all sums of money, debts or other obligations of any kind ("special power of attorney"). Respondent prepared the special power of attorney and, thus, had notice of the designation.

20. On March 4, 2010, Respondent filed Valiente's personal injury lawsuit in Los Angeles Superior Court, case no. KC058150 (the "personal injury action").

21. On March 29, 2010, Platinum Claims Services, Inc., representing insurer Balboa Insurance Company, offered to settle the matter for \$15,000.

22. On April 22, 2010, Respondent sent a letter to Platinum Claims Services, Inc. ("Platinum"), accepting its offer of settlement in the personal injury action in the amount of \$15,000, less a Medi-Cal lien in the amount of \$2,629.07.

23. On April 29, 2010, Platinum issued a check payable to Respondent and Valiente in the amount of \$12,370.29. Respondent received the check.

24. On May 5, 2010, Respondent deposited the \$12,370.29 check received on behalf of Valiente into Respondent's CTA.

25. On June 24, 2010, Platinum issued a check payable to Respondent and Valiente in the amount of \$0.64, the balance of the funds owed. Respondent received the check.

26. On June 30, 2010, Respondent deposited the \$0.64 check received on behalf of Valiente into Respondent's CTA.

27. Platinum advised Alvarado that the case settled.

28. Between January 2011 and February 2012, Alvarado, on Valient's behalf, contacted Respondent requesting a disbursement of the settlement funds.

29. Respondent did not disburse the settlement funds to Valiente or anyone on her behalf until July 15, 2012.

30. After subtracting Respondent's attorney's fees, which Respondent reduced, and costs from Valiente's settlement funds, Respondent was required to maintain \$6,062.39 in his CTA on behalf of Valiente.

31. On August 31, 2011, the balance in Respondent's CTA fell to approximately \$5,461.57.

32. On or about July 15, 2012, Respondent sent Alvarado a check of \$6,062.39 for Valiente's portion.

33. Respondent, with gross negligence, misappropriated \$600.82 (\$6,062.39 - \$5,461.57) of settlement funds received by Respondent on behalf of Valiente.

CONCLUSIONS OF LAW:

34. By failing to pay Alvarado/Valiente, as requested, their portion of the settlement funds promptly, Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(4).

35. By failing to maintain a balance of \$6062.39 received on behalf of Valiente in the CTA, Respondent failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).

36. By misappropriating \$600.82 of Valiente's settlement funds, Respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline: Respondent has one prior record of discipline. Effective July 24, 1992 (case number 87-O-17968), Respondent received one year suspension, stayed, and one year probation for violating Business and Professions Code section 6125 [practicing law while not a member] and 6126(a) [holding himself out to practice law]. From September 29, 1986 to September 8, 1987 and from July 25, 1988 to March 13, 1989, Respondent was not entitled to practice law for failure to pay membership dues. During that period, Respondent practiced law for three clients, by accepting employment and performing legal services.

Multiple/Pattern of Misconduct: Respondent's conduct involved multiple acts of wrongdoing including two client matters and seven acts of professional misconduct. However, the cases do not evidence a pattern of misconduct as it did not extend over a prolonged course of time. (*Young v. State Bar*, (1990) 50 Cal.3d 1204) (Standard 1.2(b)(ii))

Harm: The current misconduct caused harm to Respondent's clients Maury and Valiente/Alvarado. In each case, Respondent delayed by over a year to pay out funds that belonged to the clients. (Standard 1.2(b)(iv))

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances: Respondent has been cooperative in stipulating to facts and conclusions of law in this matter. Entering into a Stipulation deserves varying amounts of mitigation. (*In the Matter of Connor* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93, 107.) The greatest weight is afforded to those stipulations of facts not easily proven or stipulations to level of discipline. (*In the Matter of Silver* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902, 906.) The facts in the instant matters could have been proven by documentary evidence. Thus, Respondent's cooperation is given some, but not great weight in mitigation.

DISCUSSION OF AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession." (*In re Morse* (1995) 11 Cal.4th 184, 205; std 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the

standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing seven acts of professional misconduct in two client matters. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable to Respondent's misconduct is found in standards 2.2(a) which applies to Respondent's violation(s) of Business and Professional Code sections 6106 [moral turpitude – misappropriation].

Standard 2.2 provides that culpability of a member of wilful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a one-year actual suspension, irrespective of mitigating circumstances.

The Courts have defined an "insignificantly small" amount in various ways but the following cases are most instructive: See *Howard v. State Bar* (1990) 51 Cal. 3d 215 [misappropriation of \$ 1,300 a relatively small sum]; See also *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113 [Court found misappropriation of \$277 was of a relatively small amount for a relatively brief time, arising out of respondent's misuse of his trust account as an operating account].

An applicable case is *Edwards v. State Bar* (1990) 52 Cal. 3d 28; 801 P.2d 396. In *Edwards*, the Supreme Court ordered petitioner suspended from the practice of law for three years, execution of the suspension order be stayed and that he be placed on probation for three years on all the conditions of probation, and actually suspended from the practice of law for only the first one year of the probationary period. The Court found that petitioner commingled personal and client funds in his trust account and that on at least one occasion petitioner misappropriated a client's settlement funds from the account (approximately \$3000), had failed to maintain proper trust account records (former rule 8-101(B)(3)) and had failed to promptly pay funds his client was entitled to receive (former rule 8-101(B)(4)). Petitioner had no prior record of discipline and, in addition, the Court found that petitioner engaged in no acts of deceit, made full repayment within three months after the misappropriation and before he was aware of the complaint to the State Bar, had been candid and cooperative throughout the proceedings, and voluntarily took steps to improve his management of entrusted funds.

The instant case, unlike *Edwards*, involves two client matters. One of the client matters involves the failure to maintain client funds in trust and misappropriation. Also, in each of the instant matters, Respondent failed to pay out funds promptly, which supports evidence of harm to his client. It was only after his clients filed complaints with the State Bar, and during the investigation, that Respondent paid the client's portion of the funds. As the Court found in *Edwards*, Respondent's misconduct also evidences multiple acts of misconduct. However, the misappropriation in the present matter is \$600, which is much less than the amount in *Edwards*. Further, although Respondent, unlike the petitioner in

Edwards, has a prior record of discipline, it is remote in time and does not involve the same misconduct as the instant case.

Therefore, in view of Respondent's misconduct, applying Standard 2.2(a), as well as weighing the Court's findings in *Edwards*, and the aggravating factors, the parties stipulate that one year actual suspension is appropriate to protect the public and to preserve public confidence in the profession.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was February 27, 2013.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 27, 2013, the prosecution costs in this matter are \$4,528.22. Respondent further acknowledges that this is an estimate and should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Client Trust Accounting. (Rules Proc. of State Bar, rule 3201.)


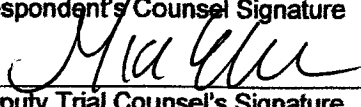
(Do not write above this line.)

In the Matter of:
Raul Thomas Sosa

Case number(s):
12-O-12305 and 12-O-14473

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>3/6/13</u> Date	 Respondent's Signature	<u>Raul Sosa</u> Print Name
<u>3/11/13</u> Date	 Deputy Trial Counsel's Signature	<u>Mia Ellis</u> Print Name

(Do not write above this line.)

In the Matter of: Raul Thomas Sosa	Case Number(s): 12-O-12305 and 12-O-14473
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ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date

3/19/13


Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on March 25, 2013, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION

in a sealed envelope for collection and mailing on that date as follows:

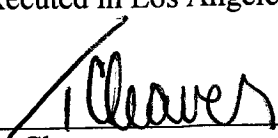
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**RAUL THOMAS SOSA
478 E ALTAMONTE DR STE 108
ALTAMONTE SPRINGS, FL 32701**

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

MIA ELLIS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 25, 2013.



Tammy Cleaver
Case Administrator
State Bar Court